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EXAMINER

HEWITT, JAMES M

ART UNIT PAPER NUMBER

3679

DATE MAILED: 08/23/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/864,694

Applicant(s)

JOHNSON, MARK NICHOLAS

Examiner

James M Hewitt

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- The MAILING DATE of this communication appears on the cover sheet with the correspondence address -

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☐ Responsive to communication(s) filed on 24 May 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-18 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☒ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 6.
- 4) ☐ Interview Summary (PTO-413) Paper No(s) \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

## **DETAILED ACTION**

### ***Oath/Declaration***

Applicant is required to submit another declaration. The current one is illegible, likely due to it being faxed.

### ***Priority***

Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 1-8 and 17 are rejected under 35 U.S.C. 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. Specifically how the first member is provided with a series of apertures formed at spaced intervals.

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-18 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding claims 1, 9-10, 13 and 16, the use of "or" and "and/or" renders the claim indefinite because it is unclear which of the limitation(s) are part of the claimed invention, and the resulting claim does not clearly set forth the metes and bounds of the patent protection desired.

In claim 2 lines 3-4, the phrase "each of said apertures is provided for the formation of a mechanical joint in accordance with the invention" is not understood. The claim is drawn to a single mechanical joint per the preamble. Applicant is claiming several joints?

In claim 5 lines 2 and 3, "the member" lacks antecedent basis and it is apparent that it should be replaced with "the first member".

In claim 6 line 1, it is unclear how "an insert" relates to the insert recited in claim 1.

In claim 6 line 2, delete "formations" and insert "respectively" before "protrude".

In claim 7 line 1, delete "in one form".

In claim 7 line 2, the term "former" should probably be replaced with a better, more easily recognized or understood term.

In claim 7 line 3, it is unclear how "an insert" relates to the insert recited in claim 1.

In claim 7 line 3, "held in position" how or where or with respect to what?

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In claim 8 line 2, it is unclear how "an insert" relates to the insert recited in claim 1.

In claim 9 line 6, it is unclear as to how moving the one portion of the member causes the first and second edges of the opening to move towards one another. This rejection also applies to claim 12.

In claim 9 lines 6-8, "the opening" lacks antecedent basis. Claim 12 lines 6-7, claim 13 line 3, and claim 18 line 1 are also affected.

In claim 13 lines 1-2, as per the specification, if the claimed former is either the insert or second member how can the former be replaced by the insert or second member?

In claim 16 lines 1-2, the phrase "said item comprising: being formed by..." makes the intent of the claim unclear. Is applicant claiming the apparatus? Is this a product by process claim?

In claim 16 line 5, "said edges" lacks antecedent basis.

In claim 16 lines 6-7, "the item of furniture" lacks antecedent basis.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this

Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

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Claims 1-5, 9-10,12 and 15-17 are rejected under 35 U.S.C. 102(b) as being anticipated by Cruson (US 3,103,742).

With respect to claims 1, 9,12 and 16, Cruson discloses a mechanical joint and method for making a mechanical joint, comprising: a first member (7) for connection with a second member (1), wherein said first member is provided with an aperture having an opening defined by first and second edges (see figure 3) , said aperture for the reception of the second member, wherein the joint is formed by moving the first and second edges of the opening to engage the second member within the aperture

With respect to claim 2, refer to figure 7 which shows a first member (30) formed with a series of apertures.

With respect to claim 3, wherein said second member lies in a plane perpendicular to the plane of the longitudinal axis of the first member.

With respect to claim 4, wherein the first member is provided in an initial condition in an elongate form and the movement of the first and second edges of the opening is about a pivotal axis located in the aperture or adjacent thereto so that the first member, when the joint is formed, has relatively angled first and second portion at or adjacent to the formed joint.

With respect to claim 5, wherein the aperture is formed so as to extend from one side of the member to the opposite side leaving a band of material at the opposite side.

With respect to claim 10, wherein the first and second edges are moved to substantially close the opening and hence retain the member in position.

With respect to claim 15, wherein the former is part of the second member trapped in position to form the mechanical joint.

With respect to claim 17, refer to the above rejection of claim 2.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious'at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-5, 9-12 and 15-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Burton et al (US 3,719,389) in view of Cruson (US 3,103,742).

With respect to claims 1, 9, 12 and 16, Burton et al disclose a mechanical joint for use in the construction of an article, said joint comprising a first member (39/40) for connection with a second member (12), and wherein said first member is provided with an aperture having an opening defined by first and second edges (see figure 3), said aperture for the reception of the second member.

Burton et al differs from the claimed invention by not teaching that the joint is formed by moving the first and second edges of the opening to engage the second member. Cruson teaches a method for forming a seating on a tube by moving a first tubular member about a second member. It would have been obvious to one having ordinary skill in the art at the time the invention to employ

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Cruson's method in order to reduce the manufacturing costs associated with cutting and welding.

With respect to claim 2, refer to figure 4 which shows the device formed with a series of apertures.

With respect to claim 3, wherein said second member lies in a plane perpendicular to the plane of the longitudinal axis of the first member.

With respect to claim 4, wherein the first member is provided in an initial condition in an elongate form and the movement of the first and second edges of the opening is about a pivotal axis located in the aperture or adjacent thereto so that the first member, when the joint is formed, has relatively angled first and second portion at or adjacent to the formed joint.

With respect to claim 5, wherein the aperture is formed so as to extend from one side of the member to the opposite side leaving a band of material at the opposite side.

With respect to claim 10, wherein the first and second edges are moved to substantially close the opening and hence retain the member in position.

With respect to claim 11, in figures 1 and 2 Cruson disclose welding the opening of the tubular member closed. It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Burton et al by closing the opening as taught by Cruson in order to permanently seal the tubular member.

With respect to claim 15, wherein the former is part of the second member trapped in position to form the mechanical joint.



With respect to claim 17, refer to the above rejection of claim 2.

With respect to claim 18, refer to the rejection of claim 11.

Claims 6-8 and 13-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Burton et al and Cruson as applied to claims 1 and 12 above, and further in view of Nicely (US 4,627,543).

Burton et al and Cruson teach all the limitations of claims 6-8 and 13-14 except for the provision of the claimed insert. Nicely teaches employing an insert (17) in a corner joint. It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Burton et al with the insert of Nicely in order to create a better connection for the joint.

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner, should be directed to James M Hewitt whose telephone number is 703-305-0552. The examiner can normally be reached on M-F, 930am-600pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lynne Browne can be reached on 703-308-1159. The fax phone numbers for the organization where this application or proceeding is

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assigned are 703-872-9326 for regular communications and 703-872-9327 for  
After Final communications.

Any inquiry of a general nature or relating to the status of this application  
or proceeding should be directed to the receptionist whose telephone number is  
703-308-1020.

jmh

jmh

August 14, 2002



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